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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,725	02/09/2004	Zohar Avrahami	206,444	1525

7590 06/23/2006

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EXAMINER

KENNEDY, SHARON E

ART UNIT PAPER NUMBER

1615

DATE MAILED: 06/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/775,725

Applicant(s)

AVRAHAMI ET AL.

Examiner

Sharon E. Kennedy

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on preliminary amendment of June 10, 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 112-117 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 112-117 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>all</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action or the MPEP.

#### ***Specification***

The disclosure is objected to because of the following informalities: The "Cross-Reference to Related Applications" section should be updated to include the new patent number. Appropriate correction is required.

#### ***Information Disclosure Statement***

Note is again made of applicant's IDS of August 23, 2005 containing the later dated references. The subject matter of the present application is disclosed in applicant's earlier patent, 6,148,232 filed November 9, 1998. U.S. Provisional Patent Application 60/150,636 was filed August 25, 1999. These references were also considered in prior patent application 10/771,909.

#### ***Double Patenting***

Claims 112-117 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,708,060. Although the conflicting claims are not identical, they are not patentably distinct from each other because each set of claims is directed to an electrode device for ablating the stratum corneum epidermis of the body.

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Claims 112-117 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-27, 29-36 of U.S. Patent No. 6,148,232. Although the conflicting claims are not identical, they are not patentably distinct from each other because each set of claims is directed to an electrode device for ablating the stratum corneum epidermis of the body.

Claims 112-117 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-44 of U.S. Patent No. 6,711,435. Although the conflicting claims are not identical, they are not patentably distinct from each other because each set of claims is directed to an electrode device for ablating the stratum corneum epidermis of the body.

Claims 112-117 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 7,062,317. Although the conflicting claims are not identical, they are not patentably distinct from each other because each set of claims is directed to an electrode device for ablating the stratum corneum epidermis of the body.

Claims 112-117 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,611,706. Although the conflicting claims are not identical, they are not patentably distinct from each other because each set of claims is directed to an electrode device for ablating the stratum corneum epidermis of the body.

Claims 112-117 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,597,946.

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Although the conflicting claims are not identical, they are not patentably distinct from each other because each set of claims is directed to an electrode device for ablating the stratum corneum epidermis of the body.

Claims 112-117 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15, 17, 20, 24-29, 31-42, 46-74, 77-86, 124-126 of copending Application No. 10/461,897. Although the conflicting claims are not identical, they are not patentably distinct from each other because each set of claims is directed to an electrode device for ablating the stratum corneum epidermis of the body.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 112-117 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 95-106 of copending Application No. 10/771,909. Although the conflicting claims are not identical, they are not patentably distinct from each other because each set of claims is directed to an electrode device for ablating the stratum corneum epidermis of the body.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Allowable Subject Matter***

Claims 112-117 would be allowed if terminal disclaimers as set forth above were filed.

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The following is a statement of reasons for the indication of allowable subject matter: Note is made of the extensive prosecution histories of the parent applications. Of relevance is the patent to Jacques et al., US 4,775,361 and the Eggers' patents, discussed previously.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon E. Kennedy whose telephone number is 571/272-4948. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on 571/272-8373.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sharon E. Kennedy  
Primary Examiner  
Art Unit 1615